

REMARKS

Claims 1-4, 6-8, 10-18, 20-25, 27-29, 31-39, 41-43, and 45-52 are now pending in the application. Claims 9, 19, 30, and 40 are now canceled without prejudice or disclaimer. Claims 1, 6, 17, 20, 21, 22, 27, 38, 41, 42, 43, 45, and 47 have been amended, and new claims 48-52 added, without introduction of new matter. Favorable reconsideration is respectfully requested in view of the above amendments and the following remarks.

The indication that claims 9, 17, 20-21, 30, 38, and 41-42 define allowable subject matter is again noted with appreciation. In response, each of claims 17, 20, 21, 38, 41, and 42 has been rewritten in independent form, including all of the limitations of their base claim and any intervening claims. In addition, the following amendments have been made:

- the subject matter of claim 9, which depended directly from claim 1, has been incorporated into claim 1, and claim 9 has been canceled without prejudice or disclaimer;
- the subject matter of claim 30, which depended directly from claim 22, has been incorporated into claim 22, and claim 30 has been canceled without prejudice or disclaimer;
- the subject matter of claim 9 has also been incorporated into claim 43; and
- the subject matter of claim 20 has also been incorporated into claim 47.

Consequently, claims 1-4, 10-18, 20-21, 22-25, 31-39, 41-42, 43, and 47 are now believed to be in condition for allowance. This is discussed further in the following.

Claims 19, 40, and 47 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Awad et al (US 2004/0022177, hereinafter “Awad”) in view of May et al. (US 2006/0036434, hereinafter “May”). This rejection is respectfully traversed.

Applicant respectfully disagrees with the Office’s conclusions regarding the relevance of the Awad and May references, and believes that claims 19, 40, and 47 are patentable over any combination of Awad and May without the need for amendments. However, in order to expedite favorable prosecution of the application, the following amendments are being made:

Each of claims 19 and 40 has been canceled without prejudice or disclaimer, thereby rendering the rejection of these claims moot.

As to independent claim, 47, it has been amended to further recite all of the limitations defined by claim 20. Since the Office has deemed claim 20 to define allowable subject matter, and since independent claim 47 is now an article of manufacture counterpart

to claim 20, claim 47 is believed to define patentable subject matter. Accordingly, it is respectfully requested that the rejection of claim 47 under 35 U.S.C. § 103(a) be withdrawn.

Claims 1-4, 6-8, 10-16, 18, 22-25, 27-29, 31-37, 39, 43, and 45-46 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Applicant's Admitted Prior Art (hereinafter "AAPA") in view of Strutt (USP 7,072,618) and Awad and further in view of May. This rejection is respectfully traversed.

Applicant respectfully disagrees with the Office's conclusions regarding the relevance of the AAPA, Strutt, Awad, and May references, and believes that claims the rejected claims are patentable over any combination of these references without the need for amendments. However, in order to expedite favorable prosecution of the application, the following amendments are being made:

Each of independent claims 1 and 43 has been amended to wholly incorporate the subject matter of claim 9; and independent claim 22 has been amended to wholly incorporate the subject matter of claim 30. Each of claims 9 and 30, now canceled without prejudice or disclaimer, has been deemed by the Office to define allowable subject matter. Consequently, independent claims 1, 22, and 43, as well as their various dependent claims 2-4, 10-16, 18, 23-25, 31-37, and 39, are believed to define subject matter that is patentably distinguishable over the prior art of record.

As to the remaining claims 6-8, 27-29, and 45-46, each of claims 6, 27, and 45 has been re-written in independent form, including all of the limitations of the base claim and any intervening claim. The following is a traversal of the rejection of these claims:

Independent claims 6, 27, and 45 are patentably distinguishable over any combination of AAPA, Strutt, Awad, and May at least because none of these documents discloses or suggests any of the following features:

- "dynamically adjusting the threshold level based on a communication traffic behavior", wherein that threshold level is used as a basis for determining whether to abort reception of a multi-part message; and
- "wherein the communication traffic behavior is whether traffic directed to a particular user equipment (UE) is part of a burst directed to that UE."

With respect to the first of these features (i.e., "dynamically adjusting ..."), Applicant has fully set forth the deficiencies of the AAPA, Strutt, and Awad references in the Remarks section of the Amendment filed on November 15, 2007, which remarks are hereby

incorporated herein by reference. Nothing in the most recent Office Action controverts these arguments, and Applicant requests that they be thoughtfully reconsidered.

May fails to make up for the deficiencies of AAPA, Strutt, and Awad, since May is directed to techniques for transmitting frame type information in a communication system, and is silent with respect to techniques for efficiently receiving a multi-part message in a code division multiple access communication system.

Applicant does not understand for what purpose the Office relies on the May reference with respect to this rejection. At best, the Office Action states with respect to claim 1, on page 7, and also with respect to claim 22 on page 10, that “According to Applicants [sic: Applicant], Awad does not teach correlating to a reduced set of possible codewords (see paper dated 11/15/07, page 12 lines 5-7). May also teaches” The Office then goes on to conclude that “It would have been obvious ... to modify the invention as taught by AAPA in view of Strutt and Awad to use subsets as taught by May in order to more accurately determine the modulation scheme to apply at the receiver as disclosed by May.”

This argument is flawed in a number of respects, not the least of which is that neither of independent claims 1 and 22 recites “correlating to a reduced set of possible codewords.” Thus, whether any of the cited references does or does disclose this feature is irrelevant to the patentability of independent claims 1 and 22. The referenced section of Applicant’s previous Amendment presented remarks concerning claims 19, 40, and 47, none of which depends from either of claims independent 1 and 22.

With respect to the feature “wherein the communication traffic behavior is whether traffic directed to a particular user equipment (UE) is part of a burst directed to that UE,” the Office argues that “Strutt teaches determining if signal is directed to a particular UE (see figure 3 wherein UEs (i.e., 102, 106, or 107) can determine if the signal is directed to it --- col. 5 lines 36-40).”

It is respectfully asserted that the Office has mischaracterized Strutt in support of its rejection. Strutt does not teach adjusting a threshold based on whether a signal is directed to a particular UE, but rather teaches detecting merely whether a valid data packet has been presented. (See, e.g., Strutt at column 5, lines 29-40.) This is done for the purpose of assessing the level of noise in the signal, because Strutt’s threshold adaptation is based on the level of noise, not on which UE is the intended recipient of the data. (See, e.g., Strutt, column 5, lines 41-47.) Nothing in the disclosed arrangement of Strutt determines who the intended recipient of data is.

Even if one were to argue that a UE (even Strutt's) must be somehow capable of recognizing whether it is the intended recipient of data, combining this general knowledge into the teachings of AAPA, Awad and May would, at best, result only in a UE capable of detecting whether it is the intended recipient of data, and which, separate and apart from this, adjusts some threshold (Applicant argues that it is not the claimed threshold) based on noise levels, as taught by Strutt. No other modification is suggested by the prior art of record.

Accordingly, the subject matter defined by each of independent claims 6, 27, and 45 is believed to be patentably distinguishable over the cited prior art for at least the reasons set forth above.

The dependent claims 7-8, 28-29, and 46 are believed to be patentable for at least the same reasons as well, and also because they define additional features that are neither disclosed nor suggested by the prior art of record.

For example, each of claims 7, 28, and 46 defines “detecting whether the UE has been addressed at any time during a number, *n*, of the most recent transmission time intervals.” (Emphasis added.) Not only does the Office Action fail to set forth any indication of where this specific feature is taught in the prior art, it states, *inter alia*, that claims 9 and 30 define allowable subject matter. Claim 9 (now canceled and incorporated into claim 1), for example, defined “wherein the communication traffic behavior accounts for the recentness of traffic addressed to a particular UE.” Applicant respectfully asserts that the subject matter defined by claims 7, 28, and 46 also relates to using a form of “recentness” (i.e., whether the UE has been addressed at any time during a number, *n*, of the most recent transmission time intervals) as a basis for adjusting a threshold level, and is therefore patentable to Applicant. Claims 8 and 29, which depend from respective claims 7 and 28, are also patentable for at least the same reasons.

For at least the foregoing reasons, claims 1-4, 6-8, 10-16, 18, 22-25, 27-29, 31-37, 39, 43, and 45-46 are believed to define subject matter that is patentably distinguishable over any combination of AAPA, Strutt, Awad, and May. Accordingly, it is respectfully requested that the rejection of these claims under 35 U.S.C. § 103(a) be withdrawn.

New claims 48-52 have been added to the application without introduction of new matter. More particularly, claim 48 is based on the text of claim 7; claim 49 is based on the text of claim 8; claim 50 is based on the text of claim 28; claim 51 is based on the text of claim 29; and claim 52 is based on the text of claim 22.

Claims 48-49 depend from independent claim 1, and are believed to be patentable for at least the reasons set forth above with respect to that base claim.

Claims 50-51 depend from independent claim 22, and are believed to be patentable for at least the reasons set forth above with respect to that base claim.

Claim 52 is based on independent claim 22, and is therefore believed to be patentable for at least the reasons set forth above with respect to that claim.

The application is believed to be in condition for allowance. Prompt notice of same is respectfully requested.

Respectfully submitted,
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